

Overview of HCBS Final Rule & Transition Plan
Assisted Living Addendum to SD Medicaid Provider Agreement
HCBS Settings Guide to Expectations and Compliance
ASA Care Plan

South Dakota Department of Social Services
Home and Community Based Services Waiver



Assisted Living Provider Education
Webinar December 14, 2016

OVERVIEW OF HCBS FINAL RULE AND TRANSITION PLAN

HCBS SETTINGS FINAL RULE

- **CMS Published Final Rule:** January 16, 2014
- **Effective Date:** March 17, 2014
- **Final Rule Intent:**
 - Maximize the opportunities for participants in Home and Community- Based Services (HCBS) programs to have full access to the benefits of community living.
 - Allow participants to receive supports in the most integrated setting.
- **All States required to submit a Transition Plan to CMS by March 15, 2015**
- **Updates made and resubmitted to CMS in April 2016 and again in November 2016**

HCBS SETTINGS CHARACTERISTICS

- All home and community-based settings must meet certain qualifications. The setting must:
 - Be integrated in and support full access to the greater community;
 - Be selected by the Consumer from among setting options;
 - Ensure Consumer rights of privacy, dignity and respect, and freedom from coercion and restraint;
 - Optimize autonomy and independence in making life choices; and
 - Facilitate choice regarding services and who provides them.

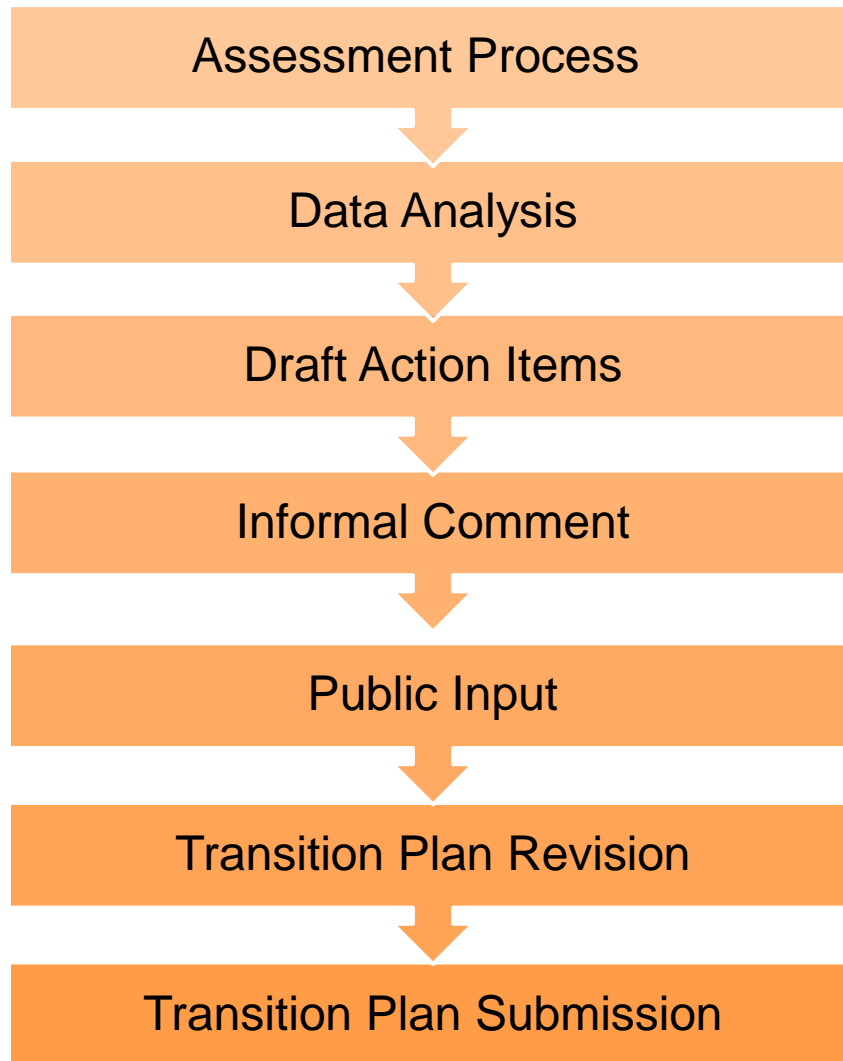
HCBS SETTINGS CHARACTERISTICS

- Additional requirements for provider-owned or controlled home and community-based residential settings:
 - The Consumer has a lease or other legally enforceable agreement providing similar protections;
 - The Consumer has privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate the unit;
 - The Consumer controls his/her own schedule including access to food at any time;
 - The Consumer can have visitors at any time; and
 - The setting is physically accessible.

ALLOWED MODIFICATIONS

- Any modification to requirements for provider-owned home and community-based residential settings must be:
 - Supported by a specific assessed need.
 - Justified in the ASA Care Plan.

TRANSITION PLANNING PROCESS

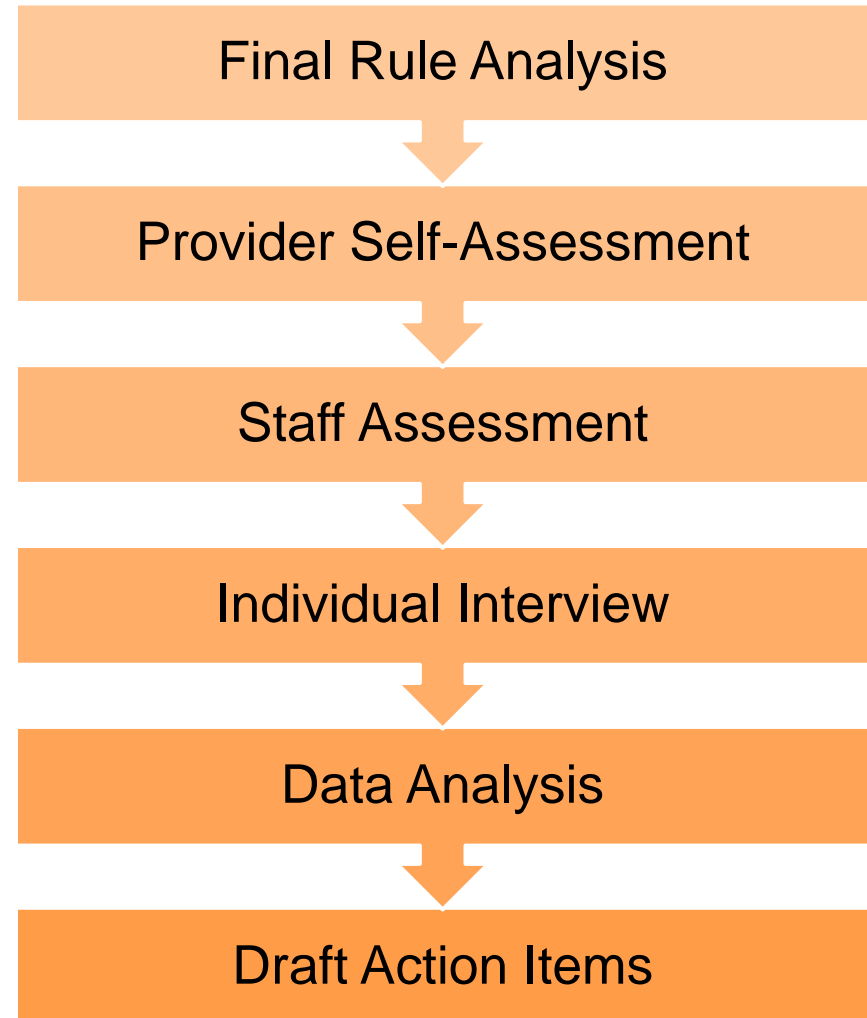


- Submitted a Statewide Transition Plan on March 12, 2015
- Submitted revised plan April 7, 2016
- CMS Feedback received September 21, 2016
 - Systemic Assessment
 - Systemic Remediation
- Submitted revised plan November 3, 2016
- Transition Plan available online at:

<http://dss.sd.gov/medicaid/hcbs.aspx>

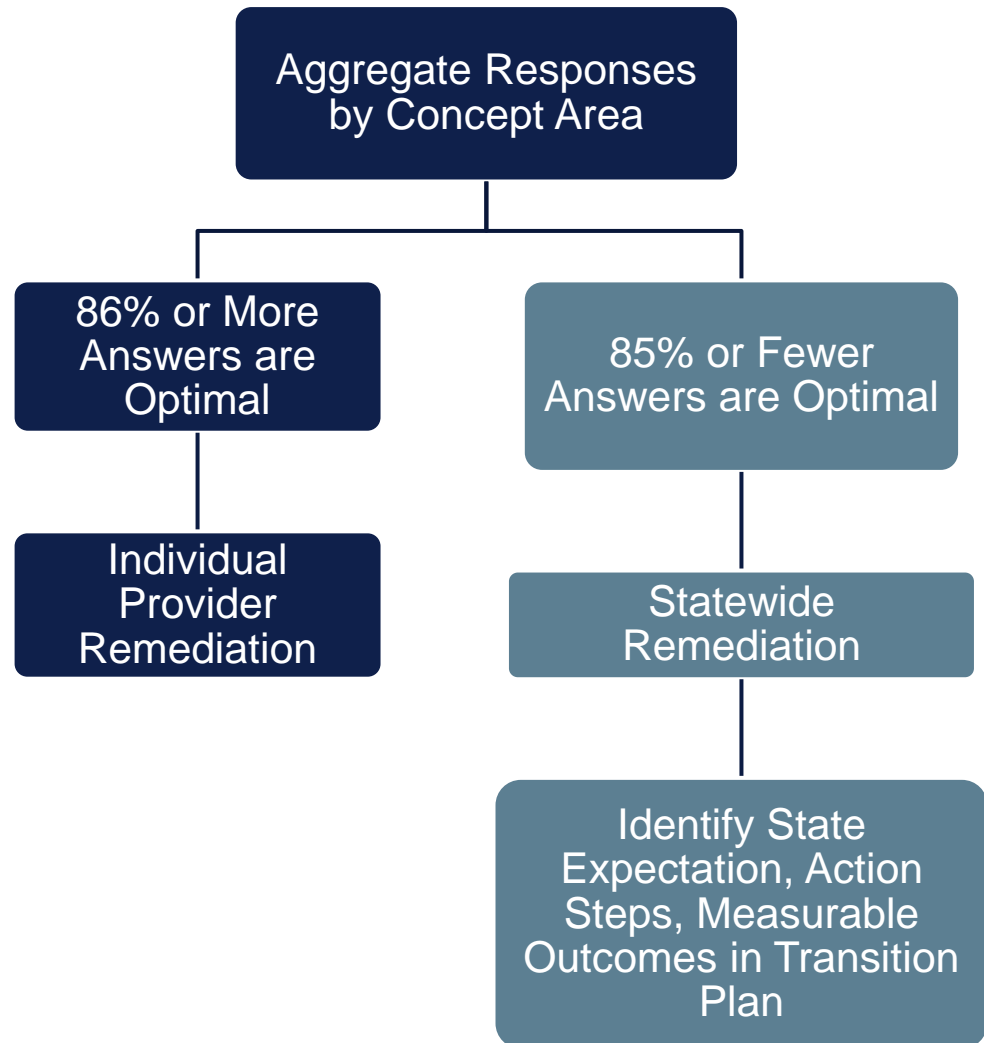
ASSESSMENT PROCESS

- Assessed settings in South Dakota based on 7 Key Concept areas:
 - Facility Location
 - Dignity and Respect
 - Privacy
 - Physical Accessibility
 - Autonomy
 - Community Integration
 - Living Arrangements
- 132 Assisted Livings submitted a Provider Self-Assessment.
- DSS performed site assessments at 131 ALs (99%).
- DSS interviewed 159 individuals receiving AL services (18%).



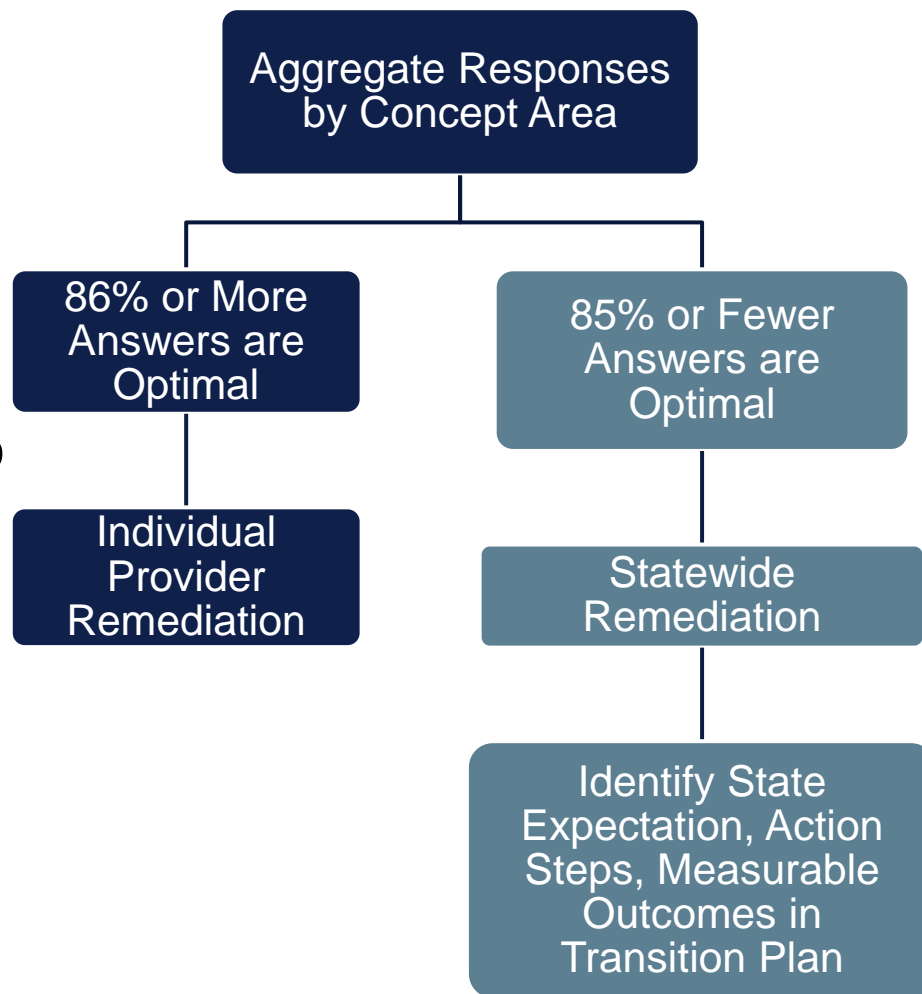
SETTINGS ANALYSIS OVERVIEW

- SD used CMS's 86% Compliance Threshold to determine where to use statewide remediation.
 - DSS will address remediation on an individual setting basis when a concept area has 86% or more compliance.
 - Statewide remediation and action items will be used when a concept area is less than 86% as shown by either the provider, staff, or individual results.



STATEWIDE ACTION ITEMS

- Statewide action items in the transition plan were identified through data analysis of assessment data.
 - Items not meeting the CMS 86% Quality Assurance Threshold were determined to be systematic in nature and assigned to statewide remediation.
- Concept Areas for Statewide Remediation:
 - Privacy
 - Living Arrangements
 - Community Integration



REMEDIATION PROCESS

Education about State and Federal Expectations in Concept Area



Provider Re-Assess Concept Area



State Evaluation



Recommendations for Compliance



Attest to Compliance in Assisted Living Addendum to the SD Medicaid Provider Agreement

STATE EVALUATION

Onsite Assessment by ASA



Notification of non-compliance



Corrective Action/Plan



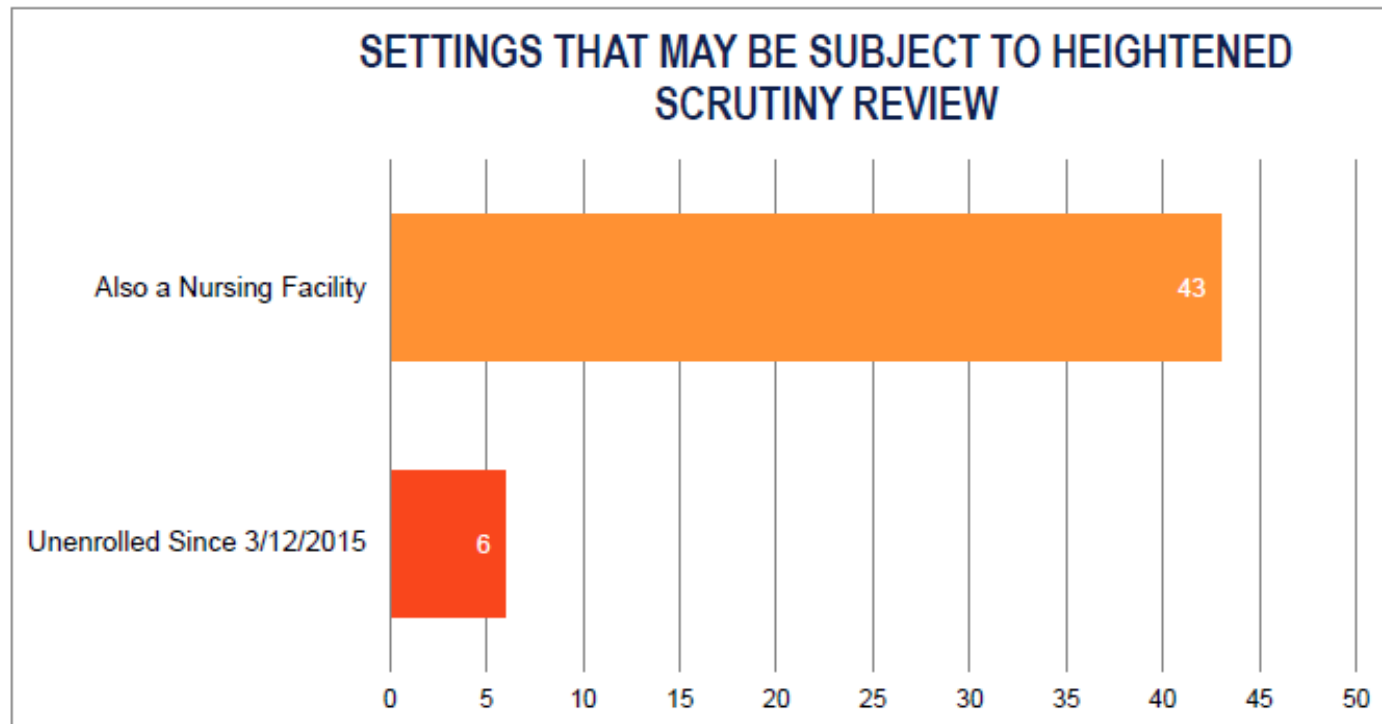
Reassessment by ASA



Compliance

SETTINGS SUBJECT TO HEIGHTENED-SCRUTINY REVIEW

- CMS identified types of settings that are subject to heightened-scrutiny review because they are presumed to isolate individuals from the broader community or that have the qualities of an institution.
- DSS performed an on-site review of each setting subject to heightened-scrutiny review and initial results indicate settings are justifiably HCBS.



Assisted Living Addendum to the SD Medicaid Provider Agreement

Serves as an Addendum to the SD
Medicaid Provider Agreement for
Assisted Living Providers and allows
you to participate in providing HCBS.

ASSISTED LIVING ADDENDUM TO THE SD MEDICAID PROVIDER AGREEMENT

- Why is DSS implementing an Assisted Living Addendum to the SD Medicaid Provider Agreement?
 - CMS requires states to specify how they will ensure continuous compliance with the action steps in the Transition Plan.
 - DSS chose a two-step continuous compliance process:
 1. Providers will attest to compliance with the HCBS Final Rule in an Assisted Living Addendum to the SD Medicaid Provider Agreement.
 2. DSS will incorporate the provisions of the HCBS Final Rule into an annual review process.

ASSISTED LIVING ADDENDUM TO THE SD MEDICAID PROVIDER AGREEMENT

- What is an Assisted Living Addendum to the SD Medicaid Provider Agreement?
 - A document that outlines additional requirements for Assisted Living Providers.
 - A document that formalizes what Assisted Living Providers already do.
- The Addendum will be sent to all SD Medicaid Assisted Living Providers following today's webinar and must be signed and returned by January 1, 2017.

ASSISTED LIVING ADDENDUM TO THE SD MEDICAID PROVIDER AGREEMENT

- The Assisted Living Addendum to the SD Medicaid Provider Agreement in part, contains:
 - Purpose of the Assisted Living Service
 - Standard Program Definitions and Requirements
 - Compliance with Administrative Rule of South Dakota
 - Compliance with all licensing requirements and other standards required by Federal, State, County, City or Tribal statutes, regulation or ordinance in which the service and/or care is provided
 - Standard Definitions and Program Requirements
 - Compliance with the HCBS Statewide Transition Plan & Action Steps
 - Compliance with the HCBS Settings Final Rule

HCBS Settings Guide to Expectations and Compliance

This guide outlines
expectations of Assisted
Living Providers to ensure
compliance of the HCBS
Setting requirements.

HCBS SETTINGS GUIDE TO EXPECTATIONS AND COMPLIANCE

- The *HCBS Settings Guide to Expectations and Compliance* document outlines expectations of Assisted Living Providers to ensure compliance of the HCBS Setting requirements.
- The *HCBS Settings Guide to Expectations and Compliance* document is intended to be an easy to understand interpretation of the requirements under the Centers for Medicare and Medicaid Services regulations, and South Dakota's expectations within the seven key Concept Areas for Provider compliance.
- The document in no way reduces, diminishes or changes the obligation of the Provider to comply with all federal and state laws and regulations as well as the Assisted Living Provider Addendum to the SD Medicaid Provider Agreement and South Dakota's Statewide Transition Plan. This guidance document is exemplary in nature and is not intended to be comprehensive.

HCBS SETTINGS GUIDE TO EXPECTATIONS AND COMPLIANCE

- Definitions
- Introduction
- Disclaimer
- Provider Concept Areas and Policy Expectations
 - 1) Location
 - 2) Living Arrangements
 - 3) Privacy
 - 4) Dignity and Respect
 - 5) Physical Accessibility
 - 6) Autonomy
 - 7) Community Integration
- Resources

HCBS SETTINGS GUIDE TO EXPECTATIONS AND COMPLIANCE

CONCEPT AREA 3: PRIVACY

The Provider ensures a Consumer's rights of privacy. Each Consumer has privacy in their sleeping or living unit. Units have entrance doors lockable by the Consumer, with only appropriate staff having keys to doors. Consumers sharing units have a choice of roommates in that setting.

TOPIC: BEDROOM OR APARTMENT DOOR LOCKS

In general, Consumers must be able to lock their bedroom or apartment doors to prevent entry when they choose.

HCBS SETTINGS GUIDE TO EXPECTATIONS AND COMPLIANCE

Bedroom or Apartment Door Lock Policy Expectations

- All Consumers must be able to lock their bedroom or apartment door when they are in their room.
- All Consumers must be able to lock their bedroom or apartment door when they leave their room.
- Only appropriate staff has access to the Consumer's bedroom or apartment.
- The Provider will have a Bedroom or Apartment Door Lock policy that specifies:
 - How Consumers are notified of their right to lock their bedroom or apartment doors when they are in their room;
 - How Consumers are notified of their right to lock their bedroom or apartment doors when they leave their room; and
 - Identify appropriate staff that should have access to the Consumer's bedroom or apartment.
- The Bedroom or Apartment Door Lock policy may specify expectations, process and costs associated with lost keys.

HCBS SETTINGS GUIDE TO EXPECTATIONS AND COMPLIANCE

- The Provider will seek approval for any modifications and/or restrictions by completing and submitting the “Modifications to ASA Care Plan” form to the Consumer’s ASA Specialist. Refer to the “Provider Policy Expectations” section of this guide for information on how to justify the restriction(s).

ASA Care Plan

The ASA Care Plan summarizes the Consumer's identified needs and the strategy for addressing unmet needs.

ASA CARE PLAN EXPECTATIONS

If a Consumer needs special supports or modifications based upon an assessed health and safety need, it must be identified within the ASA Care Plan.

- **“ASA Care Plan”** is a written person-centered plan developed by the Adult Services and Aging (ASA) Specialist with a Consumer, as well as any people the Consumer chooses, and must be finalized and agreed to, with the informed consent of the Consumer in writing, and signed by all individuals and providers responsible for its implementation.
- The ASA Care Plan reflects the services and supports that are important for the individual to meet the needs identified through an assessment of need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports.

ASA CARE PLAN EXPECTATIONS

- Any modification of the federal conditions as described at CFR 42 § 441.710(a)(1)(vi) must be individualized and addressed in the ASA Care Plan.
- If a Provider is implementing any modifications to any of these federal home and community-based settings requirements, the following must be documented in the ASA Care Plan in order to justify the modification:
 - Identify a specific and individualized assessed need;
 - Document the positive interventions and supports used prior to any modifications or restrictive interventions;
 - Document less intrusive methods of meeting the need that have been tried but didn't work;
 - Include a clear description of the condition that is directly proportionate to the specific assessed need;

ASA CARE PLAN EXPECTATIONS

- Include regular collection and review of data to measure the ongoing effectiveness of the modification;
 - Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated;
 - Include the informed consent of the Consumer;
 - Include an assurance that interventions and supports will cause no harm to the Consumer.
- The Provider must notify the ASA Specialist whenever a change in the Consumer occurs and/or a modification may be necessary. The Provider is expected to provide input and participate in the development of the initial and ongoing ASA Care Plan.

HCBS SETTINGS FINAL RULE

- For more information about the Final Rule, you are encouraged to visit the Department of Social Services' website, <http://dss.sd.gov/sdmedx/HCBS>. Providers must be in full compliance with the HCBS Setting Final Rule by **March 17, 2019**.

QUESTIONS

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